

June 21, 2000

Senator Orrin Hatch, Chairman
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Senator Patrick Leahy, Ranking Member
Committee on the Judiciary
United States Senate
Washington, D.C. 20510

Dear Senator Hatch and Senator Leahy:


We are writing to express our opposition to S. 353, the "Class Action Fairness Act." This legislation would be anything but "fair" to plaintiffs involved in class action cases brought in state courts that are based on state environmental or public health protection laws. The bill would allow defendants in such actions to remove state law cases to federal court, placing these cases in a forum that could be disadvantageous to those plaintiffs, adding time and expense while clogging the federal courts to the detriment of parties that are properly before a federal forum. We urge you to oppose this anti-environmental legislation.

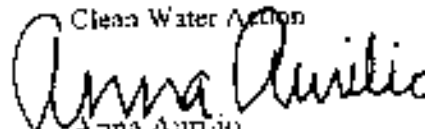
Class actions are an important tool that can be used to protect the public's health and critical natural resources by offering a legal means to aggregate claims to address them more efficiently and effectively than can be done through individual litigation. Citizens may use the state class action mechanism to gain access to the courts in situations where defendants, through a single act or series of acts, have inflicted similar injuries on a large number of people in a community exposed to toxins from a chemical accident, or whose wells have been contaminated, or who have suffered other environmental harm. S. 353 would benefit polluters in almost every state environmental class action case by allowing them to remove these cases from state courts that may be better equipped to handle them -- even if the citizen plaintiffs object.

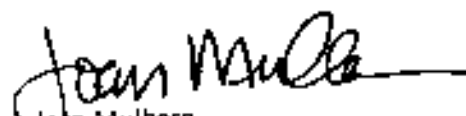
Further, allowing defendants to remove to federal court cases that more properly belong in state court will needlessly clog the already overburdened federal courts, creating delays for those parties in environmental cases whose claims must be heard in a federal forum. As U.S. Supreme Court Chief Justice William Rehnquist has stated, "*Congress should commit itself to conserving the federal courts as a distinctive judicial forum of limited jurisdiction in our system of federalism. Civil and criminal jurisdiction should be assigned to the federal courts only to further clearly defined national interests, leaving to the state courts the responsibility for adjudicating all other matters.*" (Citing the Judicial Conference's report on the Long Range Plan for the Federal Courts, 1998.) We do not believe that a "clearly defined national interest" has been identified by proponents of this bill that would justify allowing defendants to remove state law environmental class action cases to federal courts.

Citizen plaintiffs in class actions should not be stripped of their traditional right to have their cases heard in the most appropriate forum, including their state courts. We urge you to oppose this legislation that would benefit polluters at the expense of communities harmed by environmental disasters.

Sincerely,


Paul Schwartz
National Campaigns Director
Clean Water Action


Anna Aurilio
Legislative Director
U.S. Public Interest Research Group


Joan Mulhern
Legislative Counsel
Earthjustice Legal Defense Fund